

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

**IN RE PHILIPS RECALLED CPAP,
BI-LEVEL PAP, AND MECHANICAL
VENTILATOR PRODUCTS
LITIGATION** : **Master Docket: No. 21-MC-1230-JFC**
: **MDL No. 3014**

This Document Relates to: :

2:21-cv-01528 : **2:23-cv-01078**
(W.D. Pa.) - Ortego : **(W.D. Pa.) - Smith**

2:23-cv-01074 : **2:23-cv-01082**
(W.D. Pa.) - : **(W.D. Pa.) - White**
Johnson :

2:23-cv-01069 :
(W.D. Pa.) - Jones :

**THE PHILIPS DEFENDANTS' RULE 37(b)(2) AND RULE 41(b) MOTION TO DISMISS
CLAIMS OF PLAINTIFFS FAILING TO FILE PLAINTIFF FACT SHEETS**

Defendants Philips RS North America LLC, Koninklijke Philips N.V., Philips North America LLC, Philips Holding USA, Inc., and Philips RS North America Holding Corporation (collectively, the “Philips Defendants”), through their undersigned counsel, respectfully move

this Court to dismiss the claims of certain Plaintiffs with prejudice, pursuant to Federal Rule of Civil Procedure 37(b)(2) and Federal Rule of Civil Procedure 41(b).

As set forth more fully in the accompanying Memorandum of Law, certain Personal Injury Plaintiffs failed to file Plaintiff Fact Sheets within the specified timeframe pursuant to sections 5 and 13 of this Court's Pretrial Order No. 26(b) (ECF No. 2275) (the "Non-Complying Plaintiffs"). These Non-Complying Plaintiffs have failed to prosecute their matters, comply with a valid Court order, and respond to discovery. Accordingly, their claims should be dismissed with prejudice, pursuant to Federal Rule of Civil Procedure 37(b)(2) and Federal Rule of Civil Procedure 41(b), along with such other and further relief as the Court deems just and proper.

Dated: January 11, 2024

Respectfully Submitted,

/s/ John P. Lavelle, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2024, the foregoing document was electronically filed with the Clerk of the Court and served upon counsel of record through the Court's ECF filing system.

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